THE HIGH COURT OF UTTARANCHAL AT NAINITAL

First Appeal No. 640 of 2001
(Old F.A. No. 503 of 1991)

1. The Collector, Dehradun,
2. The Executive Engineer, U.P.S.I.D.C.,
   Dehradun.

….Appellant.

Vs.

Kalam Singh S/O Girdhari Singh, R/O village Haripur,
P.O. Selakui, Dehradun.
(Claimant)

….Respondent.

Sri Nand Prasad, learned Standing Counsel for the appellants.
Sri Niranjan Bhatt, learned counsel for the respondent.

Date June 16, 2006

P.C.: Hon'ble B.S. Verma, J.

This appeal is directed against the judgment and award dated 10-5-1991 passed by III Additional District Judge, Dehradun, in Land Acquisition Reference No. 220 of 1988, Kalam Singh Vs. Collector, Dehradun and another, whereby the learned Reference Court decided as many as 48 references including the present case by a common judgment as all those references related to the land acquired under one and the same notification and for the same purpose. By the impugned award, the respondent-claimant was awarded Rs. 31,072.37 as enhanced compensation and it was held that the claimants-landowners were entitled to market value of the acquired land @ Rs. 1,50,000/- per acre and the award of the S.L.A.O. was modified.

Relevant facts for the case are that the Collector Dehradun acquired in all 245.9 acre land belonging to Central Hope Town, Haripur, Selauin, Tehsil and District Dehradun for use of the U.P. State Industrial Development Corporation (***for short UPSIDC***) for developing an industrial complex. Notification under Section 4(1) of the Land Acquisition Act, 1894 (***for short the Act***)

followed by Notification under Section 6(1) of the said Act were issued and possession of the land was taken over by the U.P.S.I.D.C. on 17-03-1986. The Special Land Acquisition Officer (***S.L.A.O.***) after completing necessary formalities gave his award on 22.11.1986. Since the land-owners were dissatisfied by the market value assessed by the S.L.A.O., therefore, the matters were referred to the Reference Court under Section 18 of the Act for determination of fair and proper market value of the land under acquisition, which gave rise to as many as 48 references at one stretch. The learned Reference Court framed necessary issues, recorded the evidence led by the parties and after hearing the parties, the impugned award was passed.

I have heard learned counsel for the parties and perused the entire material on record including the lower court record.

In the course of arguments, the learned counsel for the claimant-respondent submitted that the controversy involved in the present appeal stood settled by the Division Bench judgment of this Court dated 28-9-2004 passed in First Appeal No. 336 for 2001 UPSIDC vs. State of U.P. through Collector Dehradun and others, whereby this Court decided as many as 39 appeals preferred by the U.P.S.I.D.C. by a common judgment and on merit, all the appeals were dismissed. Learned counsel further submitted that since the facts of the present case are squarely covered by the said Division bench Judgment, therefore, it will be in the fitness of things to decide the present appeal in terms of the said judgment. Learned Standing Counsel fairly conceded to this fact that all the points raised in the present appeal have already been answered by the Division Bench in the order dated 28-9-2001.

I have perused the earlier judgment passed by this Court. The present appeal is squarely covered by the aforesaid Division Bench judgment of this Court. The dispute between the

parties is regarding the land acquired under the same notification, for the same purpose, the land was similarly situated and the award passed by the SLAO is the same. Moreover, the Reference Court has decided all the references by a common judgment, as mentioned earlier. This Court while deciding 39 appeals arising out the award passed by the Reference Court has already considered the issues involved in the present appeal, which were dismissed on merit. In this view for the matter, in the interest of justice, the present appeal too is liable to be dismissed on merit in terms of the Division Bench judgment aforesaid.

Accordingly, the present appeal is dismissed on merit in terms of the Division bench judgment dated 28-9-2004 passed in First Appeal No. 336 of 2001 U.P.State Industrial Development Corporation Ltd. Vs. State of U.P. and others. Costs easy.

(B.S.Verma, J.)

RCP